IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.273 OF 2007

Sadhana Textiles Mills (P) Ltd. .. Petitioner
V/s
Income Tax Appellate Tribunal
& Ors. .. Respondents

Ms.Asifa Khan for the Petitioner.
Mr.A.N.Kotangale for the Respondents.

CORAM : DR.S.RADHAKRISHNAN &
J.P.DEVADHAR, JJ.

DATE : 13th February, 2007.

P.C.:

1. Heard the learned Counsel for the parties. Rule. The learned Counsel for the Respondents waives service. By consent taken up for hearing.

2. By this petition, the Petitioner is challenging the order dated 1st June, 2006 which was passed exparte by the Income Tax Appellate Tribunal. The Petitioner is also also challenging the further order dated 1st November, 2006 whereby the Misc.Application taken out by the Petitioner for recalling of the earlier order dated 1st June, 2006 was dismissed by the Income Tax Appellate Tribunal.

3. The main grievance of the Petitioner is that the Petitioner had filed an application for adjournment in the month of May, 2006 thereby requesting the Tribunal to keep the matter for hearing in the month of June, 2006. However, it appears that the Tribunal had fixed

the matter on 25th May, 2006 and finally passed an order on 1st June, 2006, which is admittedly an exparte order. The Tribunal had even declined to entertain the Misc.Application taken out by the Petitioner for recalling the earlier order dated 1st June, 2006 and rejected the same on 1st November, 2006.

4. The Petitioner ought to have been more vigilant and ought to have verified from the Tribunal whether the application seeking adjournment was granted or not. It appears that the Petitioenr did not verifiy whether the adjournment was granted or not.

5. In the larger interest of justice, however, we are of the opinion that the Petitioner ought to be given a fair opportunity, and only on this limited ground, we quash and set aside the order dated 1st June, 2006 and the subsequent order dated 1st November, 2006 passed by the Tribunal and accordingly the Appeal is remanded back to the Tribunal for a fresh hearing. Tribunal to hear the Appeal afresh strictly on its own merits, in accordance with law.

6. Rule is made absolute accordingly.

(J.P.DEVADHAR, J.) **(DR.S.RADHAKRISHNAN,J.)**